

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MATTHEW T. SHAFER, SHERI HAUGABOOK, PETER HEIDT, JEFFREY SHOVER, MACE TAMSE, GEORGE LIVANOS, MARK LOFTUS, JEFFREY SAMSEN, JEFFREY SHERESKY, STEVE SHERESKY, STEVE NADLER, and SANDY JUKEL, on behalf of themselves and all others similarly situated,

Plaintiffs,

-against-

MORGAN STANLEY, MORGAN STANLEY SMITH BARNEY LLC, MORGAN STANLEY COMPENSATION MANAGEMENT DEVELOPMENT AND SUCCESSION COMMITTEE, and John/Jane Does 1-20,

Defendants.

Civil Action No. 1:20-cv-11047-PGG

**NOTICE OF MOTION FOR
RECONSIDERATION OR
CLARIFICATION**

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law in support of this motion, dated December 5, 2023, and all prior proceedings in this action, Defendants Morgan Stanley, Morgan Stanley Smith Barney LLC, and the Morgan Stanley Compensation Management Development and Succession Committee will move this Court, before the Honorable Paul G. Gardephe, at the Thurgood Marshall United States Courthouse located at 40 Foley Square, Courtroom 705, New York, New York, at a date and time to be set by the Court, for an Order pursuant to Local Civil Rule 6.3, granting reconsideration and/or clarification of the Court's Opinion and Order dated November 21, 2023 (ECF No. 86), and, upon granting reconsideration and/or clarification, modifying the Court's opinion to clarify that the Court has decided only the arbitrability issue presented by the motion to compel and that the

question whether ERISA applies to Morgan Stanley's deferred compensation program can and must be decided by the arbitration panel.

Dated: Washington, D.C.

December 5, 2023

Respectfully submitted,

O'MELVENY & MYERS LLP

By: /s/ Meaghan VerGow
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